REMARKS/ARGUMENTS

The Office Action mailed January 11, 2008 has been received and its content carefully considered. Reconsideration and withdrawal of the outstanding rejections are respectfully requested in view of the foregoing amendments and the following remarks.

Claims 1-38 are pending. Claims 1-4, 6, 13, 15, 24, 29, 31, 37 and 38 are amended in several particulars for purposes of clarity in accordance with current Office policy, to assist the examiner and to expedite compact prosecution of this application.

No new matter has been added by the aforementioned amendments and no estoppels intended thereby.

The amendment to claim 2 is supported by the original claims and specification including paragraph 23, stating that the menu item included in the home menu is the previously selected rotors. Claim 3 and 31 amendment is supported for example by paragraphs 23-24. The claim 37 amendment is supported for example by paragraph 26.

I. Claim Objections

The grammatical error of "the first subset of option" was corrected for claim 38.

II. Claim Rejections - 35 USC § 112

The Examiner states that Claims 4, 6, 13, 15, 24, and 37 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for railing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The Examiner further states

that the term "essentially" in claims 13, 24, and 37 is a relative term which renders the claim indefinite. The Examiner states that the term "essentially" is not defined by the claim, the specification does not provide a standard for ascertaining the requisite degree, and one of ordinary skill in the art would not be reasonably apprised of the scope of the invention. Hence, the limitation "the same time" is rendered indefinite by use the term "essentially' in claims 13, 24, and 37 according to the Examiner.

The claims were amended to remove the term essentially as suggested by the Examiner.

The Examiner also stated that the following need additional antecedent basis for Claims 4, 6, and 15 recite as follows; Claims 4, line 3 recites the limitation "the signals"; Claim 6, line 2 recites the limitation "the plurality of type options"; Claim 15, line 10 recites the limitation "the signals".

The claims were amended to correct for antecedent basis.

III. Claim Rejections - 35 USC § 102

Claims 29 and 38 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent 6,393,429 to Yagi (hereinafter "Yagi"). The applicant respectfully traverses.

No claim is anticipated under 35 U.S.C. §102 (b) unless all of the elements are found in exactly the same situation and united in the same way in a single prior art reference. As mentioned in the **MPEP §2131**, "a claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference." Verdegaal Bros. v. Union Oil Co. of California, 814 F.2d 628, 631, 2 USPQ2d 1051,

1053 (Fed. Cir. 1987). Every element must be literally present, arranged as in the claim.

Richardson v. Suzuki Motor Co., 868 F.2d 1226, 9 USPQ2d 1913, 1920 (CAFC 1989). The

identical invention must be shown in as complete detail as is contained in the patent claim. *Id.,*

"All words in a claim must be considered in judging the patentability of that claim against the

prior art." *In re Wilson,* 424 F.2d 1382, 165 USPQ 494, 496 (CCPA 1970), and MPEP 2143.03.

Respectfully, claims 29 and 38 includes the two type of options lists. The selection of

open does not provide the second list related to the options, but is merely opening a list of file

folders.

As amended, claims 29 and 38 disclose the selection of options in a motorized or

centrifuge device. However, Yagi fails to make such a teaching and therefore, the claims are no

longer anticipated by Yagi.

IV. Claim Rejections - 35 USC § 103

According to MPEP 706.02(j), the following establishes a prima facie case of

obviousness under 35 U.S.C. §103:

> To establish a *prima facie* case of obviousness, three basic criteria
> must be met. First, there must be some suggestion or motivation,
> either in the references themselves or in the knowledge generally
> available to one of ordinary skill in the art, to modify the reference
> or to combine reference teachings. Second, there must be a
> reasonable expectation of success. Finally, the prior art reference
> (or references when combined) must teach or suggest all the claim
> limitations. The teaching or suggestion to make the claimed
> combination and the reasonable expectation of success must both
> be found in the prior art and not based on applicant's disclosure. In
> re Vaeck, 947 F.2d 488, 20 USPQ2d 1438 (Fed. Cir. 1991).

A. Claims 1-12, 14-23, 25-28, and 30-36 are rejected under 35 U.S.C. 103 (a) as being unpatentable over Yagi in view of U.S. Patent 5,926,387 to Furst (hereinafter "Furst"). The applicant respectfully traverses.

With respect to claims 1-12, 14-23, 25-28 and 30-36, the Examiner states that Yagi teaches a user interface to select a desired file/folder from a set of file(s)/folder(s) corresponding to compatible file/folder for use in a file handling device (col. 1, lines 6-16), the user interface comprising:

a home menu (col. 8, lines 63-67, col. 9, lines 1-2 and Fig. 6) to access a previously selected file(s)/folder(s) (col. 9, lines 14-21 and Fig. 6, element 52 and "recently accessed file" section); and

an add menu (Fig. 8 and 9A, via the selection of "Open") to add the desired file(s)/folder(s) in response to the desired file(s)/folder(s) being absent from the home menu, wherein the add menu includes the set of files/folders (col. 10, lines 25-40 and 57-67 and col. 11, lines 1-4).

The Examiner admits that Yagi does not expressly teach to a centrifuge and rotors, but argues that Furst teaches to a system and method for operating a centrifuge that includes querying the operator of the centrifuge for information which includes the selection of a rotor (col. 4, lines 57-62 and col. 6, lines 16-22).

However, Furst is only teaching of selection from a predetermined set of rotors that already in the system. In col. 4, lines 58-62 states that "the user may select in step 110 is choosing a rotor" and in col. 6, lines 16-22 states "the menu choices is a menu called auto-

recognize..the centrifuge will automatically recognize the rotor." The selection from a list and autorecognition relay on the predetermined list that is already in the selection process. However, there is no actual teaching of suggestion of "adding" a rotor selection form a home menu. Simply adding a menu item from Yagi is still not an actual teaching of adding the rotor. In fact throughout the Furst reference, it teaches of only selecting from a list and an autodetection that relies on the predetermined list of rotors, which is actually teaching away from adding a set of rotors to the menu. In col. 7, lines 66- col. 8 line 3, states "Thus, for example, if a rotor is not specified, the above computations are delayed until rotor has been selected by the user, or automatically determined by the centrifuge device prior to the actual centrifugation run." Again, there is no mechanism given to actually add a particular type of rotor. The automatic detection also does not allow for the adding of a rotor type, but is merely a method of not entering in the rotor manually.

According to MPEP §2145, "It is improper to combine references where the references teach away from their combination. *In re Grasselli*, 713 F.2d 731, 743, 218 USPQ 769, 779 (Fed. Cir. 1983). This portion of Furst cannot be just ignored because according to MPEP §2141.02, "A prior art reference must be considered in its entirety, i.e., as a whole, including portions that would lead away from the claimed invention. *W.L. Gore & Associates, Inc. v. Garlock, Inc.*, 721 F.2d 1540, 220 USPQ 303 (Fed. Cir. 1983), cert. denied, 469 U.S. 851 (1984)."

Therefore, Furst and Yagi should not be combined to form a rejection.

Additionally, Furst fails to teach or suggest a home menu having previously selected rotors and an add menu containing additional rotors. The differentiation based on the frequency or the history of the use is never taken into account in Furst in having two different layers of menus. Yagi by having merely an add menu does not a proper reason for rejection, because Yagi is relating to adding menus, but it does not take into account in any shape or manner the list of types of rotors. A menu in itself is not the same of a plurality of rotors that have different parameters that effect the system in a different way.

Respectfully, the adding of a folder is not the same as adding a rotor. A folder is basically just a file holder a position in a hierarchy in a file system and not of any specific connection to an actual hardware unit that effects the system as a whole. One can add a folder of any type and make up the name. However, this is not the case of rotors. Figure 8 of Yagi clearly shows that this is improper reason for rejection.

Additionally, neither Yagi or Furts is taking into account the previously selected rotors. Yagi is merely adding a description name for a place holder. Adding file folders is not the teaching of adding a configuration of a system based on a hardware part.

As per claim 4, the Examiner states that Yagi teaches as set forth above the user interface according to claim 3, further comprising:

a memory to store a run parameter (col. 6, lines 16-30 and Fig. 2, element 12); and

a processor (Fig. 2, element 11) to control the display and receive the signals from the key (col. 6, lines 25-30), the processor being configured to:

control the display to initially present the home menu (col. 6, lines 34-54, col. 15-20, Fig. 3, element 21 and Fig. 4(B), element 44; i.e. a setting means for displaying the desired home menu);

store the previously selected rotor to the run parameter (col. 6, lines 5560, i.e. store to Fig. 6, element 52 and "recently accessed file" section) in response to a selection event while the previously selected rotor is being displayed (col. 10, lines 39-49 and 57-67, col. 11, lines 1-9 and Fig. 9A and 9B);control the display to present the add menu in response to the add function being selected (col. 10, lines 25-49); andmove a newly selected rotor of the set of rotors to the home menu (Fig. 9B) from the add menu (Fig. 8 and 9A via the selection of "Open") and store the newly selected rotor to the run parameter in response to the selection event (col. 6, lines 56-60) while the newly selected rotor is being displayed (col. 10, lines 57-67 and col. 11, lines 1-9).

However, nowhere in Yagi does it teach of storing the selected rotor to the run parameter in response to the selection *while* the previously selected rotor is being displayed. In fact Furst, never mentions such a limitation either. Furst never even mentions of storing the selected rotor with the run parameter. In fact Furst mentions in Col. 4, lines 57-62 that the rotor speed and run time will be computed for the experiment after the rotor is actually selected. Clearly, Furt does not teach or suggest the claimed limitation.

As per claim 6, the Examiner states that Yagi teaches as set forth above the processor is further configured to control the display to scroll through the plurality of type options while the display is presenting the add menu and in response to the signal (col. 13, lines 43-61 and Fig. 13; i.e. the user moves from one type option to another using a mouse (Fig. 2,element 17), hence scrolling through the type options).

However, Yagi is teaching added menu items are shown in the menu when the icon representing a file or folder or a plurality of application files, data files are selected..." (col. 13, lines 50-55. This is not teaching of the actual add menu being displayed *while* the options display is also displayed.

As per claim 14, the Examiner states that Yagi teaches as set forth above the add menu further comprises a plurality of type menus to subdivide the set of rotors (Fig. 10; i.e. divided into a plurality of files) into a plurality of respective type options (Fig. 10; i.e. divided into a plurality of different folders), the processor the configured to control the display to present the plurality of type menus (col. 11, lines 41-48).

However, respectfully, dividing into folders as shown in Yagi is not an actual teaching or suggestion of subdividing the rotors into the types of rotors. In fact, Furt makes no such teaching or suggestion of subdividing into the type of rotors. The actual teaching of "type" needs to be shown in the references and not expanded from a generic file handling program.

B. Claims 13, 24 and 37 are rejected under 35 U.S.C. 103(a) as being unpatentable over Yagi in view of Furst in further view of U.S. Patent No. 5,358,343 (hereinafter Klauber). The Applicant respectfully traverses.

As per claims 13, 24 and 37, the Examiner states that Yagi does not expressly teach the key includes a down key and an up key and the processor is configured to determine the selection event has occurred in response to receiving the signal from the down key and the up key at essentially the same time.

However, the Examiner states that Furst teaches to a key and processor configured to the control a display by selection of a menu item in response to the key's output (col. 5, lines 45-48 and 67 and col. 6, lines 1-3; i.e. signal).

Even though the Examiner admits that Furst does not expressly teach to two keys to the simultaneous activation of two keys at essentially the same time, the Examiner argues that Klauber teaches to the simultaneous activation of two keys, which the processor is configured to determine the activation has occurred in response to receiving an output signal from the two keys (col.11, lines 55-60).

However, respectfully, the teaching of two keys at the same time for some or any event is in itself not a reason for a rejection. Col. 11 of Klauber merely states that "a large number of possible combinations exist" when the methods of different directional activation pressures and changeable function activated by simultaneous or sequential depression two keys." Klauber is merely stating that there is potential for two keys to be pressed with result. However, probabilities or possibilities are not enough as a reason for a rejection. The mere fact that a

certain thing may result from a given set of circumstances is not sufficient.' " In re Robertson,

169 F.3d 743, 745, 49 USPQ2d 1949, 1950-51 (Fed. Cir. 1999) (citations omitted).

Merely stating that two keys can be pressed to get a result and then connect it loosely

with the centrifuge control is, respectfully, stretching the reason for rejection than is allowed

under 35USC103.

IV. Conclusion

In view of the foregoing, reconsideration and allowance of this application is believed

in order and such action is earnestly solicited. Should the Examiner believe that a telephone

conference would facilitate examination of the application, the Examiner is respectfully invited

to telephone the undersigned at (202) 861-1737.

In the event this paper is not timely filed, the Applicant petitions for an appropriate

extension of time. Please charge any fee deficiencies or credit any overpayments to Deposit

Account No. 50-2036 referencing Atty. Dkt. No. 87334.5660.

Respectfully submitted,

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